



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,967	03/19/2004	Hideki Takahashi	250752US2S	6481
22850	7590	05/15/2007	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			PSITOS, ARISTOTELIS M	
		ART UNIT	PAPER NUMBER	
		2627		
		NOTIFICATION DATE	DELIVERY MODE	
		05/15/2007	ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

Office Action Summary	Application No.	Applicant(s)
	10/803,967	TAKAHASHI, HIDEKI
	Examiner	Art Unit
	Aristotelis M. Psitos	2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 March 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,7,12,17 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,7,12,17,22 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

Art Unit: 2627

DETAILED ACTION

Applicants' response of 3/12/07 has been considered with the following results.

Specification

The amended title of the invention is greatly appreciated; however since the focus of the claimed invention is to defective management sets, the examiner still objects to the new title because such an attribute is not clearly found in the title. Appropriate correction is respectfully requested.

Claim Objections

1. Claims 1,2,7,17,22 are objected to because of the following informalities:

Claim 1: recites a product/ i.e., a storage medium. The medium has user area and a plurality of defect management areas. The wherein clause refers to an operational capability that cannot follow from the structure positively recited; i.e., there is no capability of detecting any defect recited in the remainder of the claim. The claim – is interpreted merely as a product.

Claim 2, is written as a dependent claim. However, the examiner believes this to be an independent claim, i.e., a reproduction apparatus. Hence, it must recite the structure of claim 1 in the body of the claim. An independent claim must not refer to any other claim.

With respect to claims 7 and 22: the term "unit". The second recording unit of claim 22 is not clear. In view of applicants' comments as to what the "units" comprise, the examiner concludes applicants are attempting to equate the "unit" with the standard term "means" in USPTO practice.

The examiner recommends using such accepted terminology.

With respect to claim 17, the ultimate step does not follow from the structure positively recited, i.e., the recording in this step is predicated upon the "detection of the defect in the current defect management area set". However, there is no step of detecting any defects.

With respect to claim 22, similarly this apparatus fails to include any structure/positive elements detecting any state of defect.

Art Unit: 2627

Although no 112 rejections (based on incomplete claims/failing to particularly point out and distinctly claim there subject matter) have been presented, absent appropriate correction, such positions will be introduced in any subsequent OA.

Appropriate correction is required.

Errata

In response to applicants' amendments and remarks, the following segregation of the claims is presented:

- a) Claim 1 – a product, having a user area and a plurality of dma
- b) Reproducing apparatus
- c) Reproducing Method
- d) Recording Method
- e) Recording Apparatus

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 2627

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 1,7 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over either Sasaki et al or Ko et al.

With respect to claim 1,

a) Sasaki et al discloses an optical medium having a plurality of dma – see figure 3 and its associated disclosure – wherein DMA1 ---- DMA4 is depicted. Each of these areas has additional subsections/areas – labeled pdl, sdl. Furthermore, there is a user area.

Hence, the information storage medium is present. Wherein a user area is present, and a plurality of defect management areas (first, second third and fourth).

Under 102 considerations, the examiner interprets each pdl, sdl pair as a "set". These sets are located in first through fourth defect management areas.

Furthermore, with respect to claim 1, the examiner interprets the ultimate wherein clause as merely a desired result that occurs from the elements positively recited in the remainder of the claim, i.e., the areas. Since the areas have been met, this wherein desired result inherently follows.

Under 103 considerations, the system to Sasaki et al does provide for the detection of defects.

These are the primary and secondary lists. Any updating is provided to a spare area. These spare areas are located in the user data area (but separate from).

The ability to relocate the spare areas into the dma areas is considered merely as obvious variant, i.e., placement of the replacement/spare area from one area of the recording medium to another.

Placing these spare/replacement areas in the dma area as opposed to the user area would of course decrease the amount of time require to update the defective lists.

Art Unit: 2627

Ko et al discloses a record medium. This record medium has a plurality of dma as well as a user area – see figure 1 and its associated description.

Under 102 considerations, the examiner interprets each pdl, sdl pair as a "set". These sets are located in first through fourth defect management areas.

Furthermore, with respect to claim 1, the examiner interprets the ultimate wherein clause as merely a desired result that occurs from the elements positively recited in the remainder of the claim, i.e., the areas. Since the areas have been met, this wherein desired result inherently follows.

Under 103 considerations, the Ko et al system provides for the ability to update the defective lists predicated upon the occurrence of such. The updates are place in spare areas/ supplement spare areas – see figure 4 and the description thereof.

The ability to relocate the spare areas into the dma areas is considered merely as obvious variant, i.e., placement of the replacement/spare area from one area of the recording medium to another.

Placing these spare/replacement areas in the dma area as opposed to the area indicated in Ko et al would of course decrease the amount of time require to update the defective lists

With respect to claim 7, inherently there is a reading unit/means and a reproducing unit/means.

With respect to claims 12 and 17, the methods follow when either the above systems operate.

With respect to claim 22, the examiner interprets the first and second recording units as the same elements.

Conclusion

The cited patent to Takahashi et al – '534 – can be relied upon to reject the above claims – following the reasoning above. It is noted that this document has same assignee.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date

Art Unit: 2627

of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aristotelis M. Psitos whose telephone number is (571) 272-7594. The examiner can normally be reached on M-F: 6:00 - 2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne D. Bost can be reached on (571) 272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Aristotelis M Psitos
Primary Examiner
Art Unit 2627

AMP

